

**COMMISSION MEETING
THURSDAY, MAY 11, 2000
Draft Minutes**

Chair Ludwig called the meeting to order at 1 p.m. at the LaConner Country Inn. He welcomed TV W, and introduced the following attendees:

MEMBERS PRESENT: **CURTIS LUDWIG, Chair;
COMMISSIONER MARSHALL FORREST;
COMMISSIONER LIZ MCLAUGHLIN; and
COMMISSIONER GEORGE ORR;
Ex Officio Members, SENATOR MARGARITA PRENTICE;
SENATOR SHIRLEY WINSLEY; and
REPRESENTATIVE JIM CLEMENTS**

STAFF PRESENT: **BEN BISHOP, Executive Director
SHERRI WINSLOW, Deputy Director;
ED FLEISHER, Deputy Director;
CALLY CASS-HEALY, Assistant Director;
DERRY FRIES, Assistant Director;
ROBERT BERG, Assistant Director;
MONTY HARMON, Program Manager;
JERRY ACKERMAN, Assistant Attorney General; and
SHIRLEY CORBETT, Executive Assistant**

1. **License Approvals - New Licenses, Changes, and Tribal Certifications**
Commissioner McLaughlin made a motion seconded by **Commissioner Forrest** to approve the new licenses, changes and tribal certifications as listed in pages 1-27 submitted in the agenda packet. *Vote taken; the motion carried with four aye votes.*
2. **Review of Friday's Agenda:**
Ed Fleisher, Deputy Director, noted a change in Thursday's agenda. Staff requested that Item #10, the Lake Washington Youth Soccer Petition regarding net return violations be held over until next month.

Mr. Fleisher noted there are four rules packages up for consideration on Friday. The card room tournament license rule is the only rule up for final action this month. Ten rules are up for discussion on the sale and purchase of gambling equipment; and a single rule regarding sales on licensed premises. A rule is also up for discussion and possible filing regarding limited fund raising events, which is the first packet of rules coming to the Commission as a result of legislative action at the last session.

Chair Ludwig announced that Dr. Alan Parker, of The Evergreen College, will be appointed as the Commission's fifth member, and will be attending the June meeting. He noted the four current commissioners are very pleased with this appointment.

3. **Staff Report - Update on Bingo Task Force & Overview of Net Return Requirements:** **Sherri Winslow**, Deputy Director of Operations, provided an overview of the Bingo Task Force activities. She reported that licensees came to staff in October of 1998, proposing a task force be convened. A previous task force had been created in 1995 to study market declines and to make recommendations based on current market conditions. The Commission concurred with the 1998 request and implemented the new task force which has been meeting regularly. Ms. Winslow reviewed the goals of the task force which included: projecting the vision of gaming within the next five years; to study changes in gaming so that impacted rules could be evaluated; and streamlining Bingo operational rules. An additional goal the task force is currently working on is new market opportunities, which includes Bingo and Pull-tab activity.

Ms. Winslow reported that the current plan for the task force is to hold additional meetings in July, August and September. An initial report is tentatively scheduled for release in September. It will identify alternatives for net return requirements and significant progress rules. The task force will be phasing in the new market opportunity rules as various proposals are brought forward. A task force findings presentation is tentatively scheduled for the September Commission Meeting. Ms. Winslow provided a historical overview of the net return moratorium and net return rules.

Net Return Temporary Moratorium – WAC 230-20-058

The moratorium was effective in February of 1999, and was supposed to study impacts outside the charitable and non profit licensee's control. It basically allowed those participating in the study a 5 percent reduction of their net return requirements for measurement periods after December 31 of 1998. It required the organizations to have a positive cash flow; those not meeting the requirements were subject to penalties and reductions in license class, respectively.

Net Return Rules – WAC 230-04-260

The Commission passed this requirement in December of 1996. A net income requirement has existed since 1985. The purpose of the net return was to ensure that Bingo was only conducted as a social pastime or fundraising event to support the purpose of the organization. To accomplish the fundraising, there were limits placed on the organizations. Gross receipts from Bingo couldn't exceed the limits by license class, and prizes and

expenses could not be excessive. Net Return includes the net income from punch board pull-tabs, from Bingo, amusement games, raffles at the Bingo game, food and drink sales, any retail sales at the game, and any income from the rental of the facility. There is an addition for local gambling taxes, which is called an add-back. The local gambling tax credit was determined to be necessary since the organizations were already giving back to their local communities.

Net Return Variances – WAC 230-06-060

There are two types of variances that existed prior to the moratorium. There was a general variance which allowed the director to provide a variance to a group of licensees that have similar circumstances at similar times. The impacts had to be unusual and unexpected, and they had to last longer than a week, however, the variance could not exceed three months. The second variance is a limited variance and is only allowed with specific conditions for specific licensees and there are only two percentage points allowed.

Net Return Sanctions

This is the next aspect of the process which can result in brief adjudicated proceedings. There haven't been any brief adjudicated proceedings because Bingo games have improved, there have been agreements on the limitations, and/or there have also been some closures. There are two different categories under the Net Return Sanctions. There is a quarterly basis – where the licensee notifies staff and develops a plan to correct their activity. On the annual basis, the Commission is more actively involved. If there is a net return violation and there is a positive cash flow with the first violation, the license class for the next annual license year is reduced to the level of net return actually achieved. The maximum reduction is limited to no more than half of the maximum gross receipts of the organization's current license. The reduction is limited to a maximum of two license classes.

If a net return violation exists and there is a negative cash flow, the director is responsible for reviewing the licensee's most recent three-month operating results, and commences appropriate administrative actions. If the licensee is no longer subsidizing the Bingo game, the licensee will have the license limited. However, there is a possibility of a summary suspension of their license, which means the licensee would have to cease operating immediately.

There is a provision for a licensee to upgrade if they were previously limited and if they are currently meeting their net return. The licensee must demonstrate they can meet the net return requirements at their desired license class level for two consecutive quarters. If they are unable to demonstrate they can achieve the net return, they may petition the director for a variance.

Petitioning the Commission

Licensees may petition the Commission for at least two reasons related to net return. The current moratorium allows organizations with net returns out by more than 5 percent to go to the Commission for relief. Under the authority given to the Commission (RCW 9.46.070), the Commission has the discretion to regulate and establish maximum limitations on income

derived from Bingo. Under this law, the Commission is expected to take into account the nature, character and scope of the activities of the licensee, the source of all other income, and the percentage of income that is charitable versus nonprofit. The process used for petitioning includes a written petition to the Commission. The petition is generally heard at a regular Commission meeting with an officer and gambling manager present, and the approval is generally contingent on future compliance or other factors. For the most part, petitions to the Commission must state whether they're charitable versus nonprofit portions of the program and it must also include income from other sources.

Commissioner Forrest pointed out that when Bingo started, it was considered a valuable privilege. He didn't know what the original logic for staggered business was – one could have more gambling based on the economies of scale. Commissioner Forrest stated that none of that seems appropriate now--particularly cutting down somebody's gross. This doesn't seem to be a very helpful kind of penalty, when the purpose is to support the charitable activity. Commissioner Forrest didn't believe this new climate would go away unless the legislature lets the charities operate machines, which isn't likely to happen in the immediate future. He believed the charities are going to have to live with a much more limited income.

Commissioner Forrest believed this series of steps and series of licenses is outmoded. He stressed that Bingo games shouldn't operate just to pay the salaries of the people who run the game. There should be some positive contribution to the purposes of the charity or nonprofit corporation. He believed the Commission should start from scratch and decide how much, or what percentage of the gross -- after that, there should be some modest fund for a disasters or the truly unusual occurrence. Commissioner Forrest believed if there is going to be any substantial relief, it will have to come from the legislature. The Commission may say "you can earn a little less money" but in his opinion, that's all the Commission has the authority to do.

Commissioner Forrest was particularly troubled by the idea of eventually having a flood of applications coming to the Commission without any real firm guidelines as to why the people should be spared. He believed the sanction of restricting a license is not well calculated to effect the legislative purpose, which was to support certain activities by giving the organization the opportunity to conduct what was then a rare activity. Commissioner Forrest suggested the Commission adopt a long-term policy early this fall, so the boards supporting these activities know what they're going to have to live with. If they have the political muscle to persuade the legislature to give them some more power, fine, if not, the Commission can't save them from this gambling climate. Commissioner Forrest believed there should be a relatively simple rule with very limited exceptions for catastrophic events or the opening of a new game. He emphasized that the Commission, when they set this minimum, has to consider that it would be better to have three games making money than four games each producing a thousand dollars a year for their activities. He encouraged staff to reexamine, with the industry, the whole structure and series of graduated levels.

Ms. Winslow affirmed that staff is looking to revamp the whole system. Originally they addressed it by dissecting each of the rules and talking about the strengths and weaknesses. As time progressed, staff saw market conditions decline dramatically. They recognized there needed to be a total revamping, because what existed is not going to work in the new marketplace. Therefore, staff expects to see some major changes to the rules.

Commissioner McLaughlin noted that she has heard that the demise of nonprofit Bingo is a concern all over and asked how other states are handling the program. **Ms. Cass-Healy**, Assistant Director, responded that many of the other states are looking to Washington and watching to see how we handle it. Commissioner McLaughlin asked about Canada's nonprofit Bingo gambling. Ms. Cass-Healy replied that Canada has professionalized their Bingo, they have professional organizations that manage the Bingo games. They have separate management companies that come in and manage the games, and give the money to the nonprofit entity. Ms. Cass-Healy affirmed that all the other jurisdictions have the same competition problems; many of them have more Indian Bingo games starting up, and they are looking for other ways to complement the nonprofit dollars. She noted that many other states run their nonprofit games differently. Many require only volunteers, many are on a much smaller scale, but they're all looking for answers.

Senator Winsley addressed expenses relating to Bingo operations and asked if staff had taken into consideration locations. The chart previously provided showed they were operated in the more urban areas where there have been tremendous rent increases. She noted that salaries is another component to consider -- the average salary is about \$40,000 a year; however, some are much less and some are much higher. **Ms. Winslow** affirmed that staff has discussed these issues. Regarding location, the one thing that levels that out is the local tax add back. Regarding salaries and benefits; the recent increases in minimum wage has severely impacted this market because when the minimum wage increases, the existing staffing wage also increases. There have also been increases in the medical benefit requirements. Ms. Winslow affirmed that staff is considering all these issues, and trying to keep the net return issue as simple and reasonable as possible. **Commissioner Orr** asked if it would be appropriate to schedule a retreat; the Commissioners could get input from staff and the industry, and share information to help the Commission make a sound decision.

Senator Prentice thought that a part of the larger debate is how much should the legislature become involved. She asked how often must they up the ante -- because the charitables will come asking -- then the card rooms will ask for something different -- then the tribes will say they aren't competitive. She emphasized this is exactly the fear they had. Senator Prentice addressed the two presentations last month; people with almost no overhead and yet some how they were making it, and they were doing terrific things. She explained that she walked away puzzled -- thinking what else is there in this picture that they are not seeing, and how much of it is the legislature's obligation to fix. Is it simply a changing market? It sounds easy when gambling is the only focus, however, she cautioned that gambling issues may stand well behind roads, schools, and health care priorities.

Chair Ludwig addressed the leapfrogging situation because of the tribal casinos which were authorized by Congress. Social card rooms and other types of gambling activity began to suffer a little bit and so they asked for assistance -- then the tribal casinos asked for assistance, and as a result, there was a lawsuit. Throughout all of this, to the extent the Commission can, they recognize some inequities and they recognize the inequities that exist so far as nonprofit and charitable Bingo is concerned. Under the present legislation, there's been very little the Commission can do except try to be supportive. Chair Ludwig supported conducting a special meeting. He particularly liked Commissioner Forrests' suggestion to simplify things. He acknowledged that sometimes licensees help complicate things because they request exceptions. Chair Ludwig affirmed the Commission should start looking more in depth at nonprofits and charitables, and whether they are going to survive and be profitable – they do perform great services – these are the non-tax dollars at work, and they do so many things for communities that aren't otherwise done.

4. Manufacturer Review:

Tripp Enterprises, Inc., Sparks, Nevada:

Monty Harmon, Program Manager, advised that Tripp Enterprises, Inc., has applied for a Class B manufacturer's license that would allow them sales of up to \$250,000 a year in the state. The organization was started as a sole proprietorship by Walter Tripp in 1948 and incorporated in the state of Nevada in 1959. It is primarily a manufacturer of industrial plastics. They provide services in the form of engineering, tooling, thermal forming, trimming, machining and several other fabrication processes. The corporation's manufacturing plant and administrative offices are housed together in Sparks, Nevada. The corporation also has retail stores that sell plastic retail items in Nevada. Their original application was for service supplier services. They decided to pursue a manufacturer license because of the possibility of their marketing an automated Keno machine.

Warren Tripp is President, Chairperson of the Board and also the Treasurer. He owns all of the outstanding shares. The agency's investigative procedures were performed and criminal and personal history background checks were completed. There was no disqualifying information noted during the investigation. Based on the investigation results, staff recommends the licensing of Tripp Enterprises, Inc., as a manufacturer of gambling equipment and paraphernalia. No representatives were present from the organization.

Commissioner Forrest made a motion seconded by **Commissioner Orr** to approve licensing Tripp Enterprises, Inc., as a manufacturer of gambling equipment and paraphernalia. *Vote taken; motion carried with four aye votes.*

5. Group IV Qualification Review

American Red Cross - Cowlitz-Wahkiakum County Chapter, Longview:

Monty Harmon, Program Manager, reported that a qualification review was conducted of this organization. Their chapter is located in Cowlitz-Wahkiakum. A detailed report is presented in the agenda packet. It was noted during the review this organization has been licensed since 1987. It is formed as a charitable, nonprofit organization that provides programs that respond to local natural disasters, community blood donation services and

safety education programs. The organization met its net return of 10 percent for their Class I Bingo license. Their actual percentage was 12.6 percent. There are no pending administrative charges against the organization as of this date and they have made significant progress towards their stated purpose. Based on the results of the review, staff recommends American Red Cross, Cowlitz-Wahkiakum County Chapter be approved as a charitable organization and be authorized to conduct gambling activities in the state of Washington.

Larry Wendfeldt, Executive Director, introduced Vicki Humphry, General Manager, of their Bingo operation. **Commissioner Forrest** asked how the organization managed to provide their services. **Mr. Wendfeldt** responded that it took a lot of hard work and good management. They have a vision of where they want to go and they keep their eye not just on Bingo, but their overall operation. He said their organization has a good team. **Commissioner McLaughlin** pointed out that their receipts have grown in the last year and that's unusual. Mr. Wendfeldt believed it was because they have very innovative people who come up with new ideas. **Ms. Humphry** concurred and noted that a lot of it is just trying different things -- if it works, you keep it; if it doesn't, then you get rid of it and try something else. She affirmed that one thing imperative in her hall is customer service.

Commissioner McLaughlin asked if there was an Indian Casinos near their establishment. **Ms. Humphrey** responded that Rochester is about an hour and a half away, and that Northern Lights is the only other facility in town. She said they operate on the weekends and she operates mid-week. Commissioner McLaughlin asked if there were enhanced card rooms around and Ms. Humphry affirmed.

Senator Prentice asked how her organization could be in the same kind of environment and be so successful. She indicated this why the legislature is very reluctant to step in and try to cure a market they don't understand. **Ms. Humphrey** said that her staff brings programs from other places for her approval. She said she receives customer comments on what they like and what they don't -- they've indicated that it feels like a home and doesn't look like a casino. Ms. Humphrey believed that if one has the right staff with the right outlook, things will work. She said she focuses on bringing in games that she thinks are fun and that the customers will like.

Senator Winsley addressed the operating expenses, noting the rent lease is approximately \$1,600 per month. **Mr. Wendfeldt** explained the building will belong to their chapter in the year 2004-- it was given to them in trust, and that's where the Bingo operation is. The building is approximately 16,000 square feet. Senator Winsley asked how many employees there were. Ms. Humphry said 21 people on the Bingo side and 18 FTE's who receive an average \$7 per hour. There are four management staff who are paid under \$40,000 per year. **Commissioner McLaughlin** asked if they were part of the satellite games and was informed that they were. **Senator Winsley** asked if they paid property taxes and was informed they pay property taxes on the Bingo building itself because that was part of the trust. When it becomes the Chapter's building totally in 2004, they will not.

Commissioner McLaughlin made a motion seconded by Commissioner Forrest to approve American Red Cross, Cowlitz-Wahkiakum County Chapter as a charitable organization authorized to conduct gambling activities in the state of Washington.
Vote Taken; the motion carried with four aye votes.

6. Group V Qualification Review

Sno-King Amateur Hockey Association, Kirkland:

Monty Harmon, Program Manager, reported that Commission staff conducted the review for the fiscal year ending June 30, 1999. A detailed report of the review is in the Commission packet. It was noted during the review that Sno-King has been licensed since 1974 and is formed as an athletic organization. The organization provides programs that promote, develop and supervise youth who participate in hockey programs. Considering its inclusion in the current net return moratorium, the organization met the combined net return percentage of 14 percent for its Class K Bingo by achieving a 13.5 percent return. There are no pending administrative charges against the organization as of this date. The organization made significant progress towards its stated purpose during the year. Based on the results of the review, staff recommends Sno-King Amateur Hockey Association be approved as an athletic association and be authorized to conduct gambling activities in the state of Washington.

Marcel Comeau, Executive Director, introduced members Clyde Bach, Bingo Manager, and Doug Hale, Board Member from Sno-King in Seattle.

Commissioner McLaughlin noted a downturn in the Bingo net receipts. She asked if that is still holding or changing. **Mr. Comeau** confirmed a downward trend, noting an obvious competitive marketplace. He affirmed that like others, his organization continues to struggle to maintain levels they used to achieve routinely four or five years ago. **Chair Ludwig** asked how many tribal casinos were within an hour's drive of their location. **Mr. Comeau** said there weren't a lot of casinos on the east side, however, the Muckleshoot facility would be the closest, then the Tulalips. **Mr. Bach** noted that within an hour's drive there are about 15 or more operations such as card rooms and tribal casinos.

Senator Winsley called attention to one of her earlier comments regarding wages and location. Comparing Longview to Kirkland -- they pay \$19,000 in rent, and Sno-King is paying \$95,000 -- and their wages are only \$255,000 compared to Longview's \$230,000. She asked how many employees Sno-King employs. **Mr. Bach** responded there were 40 in their overall operation and approximately 18.5 FTE's in their Bingo operation. Senator Winsley asked about the average hourly wage. **Mr. Bach** responded in the \$9.50 to \$10.00 range.

Representative Clements asked if the Gambling Commission required an accounting of the net gambling income from previous years -- actually asking where their profits were spent. **Director Bishop** affirmed that is part of this process and directed the Commissioners to the portion of the report titled "Program Services Direct" and the top half of the statistics. "Functional Expenses," identifies how much gambling money was spent. In the previous year, they were required to spend at least 60 percent . . . Representative Clements said he

was more concerned with specificity as to what they spend it on – if they're a charitable organization, where they are giving their money, and what they're doing. Director Bishop affirmed the Commission asks for an accounting, and if they have donations, they have to list them. He noted that in the case of both of these organizations, they are direct service providers. **Ms. Winslow** clarified the services are outlined on the first page of the packet. **Director Bishop** explained the process; the legislation requires that an organization demonstrate that they've made significant progress towards their stated purpose in the previous 12-month period. That requirement is the reason they do this accounting – a formal report to show the services they provide or the donations they've made – and what they've done with it to show that they've made progress towards their stated purposes.

Commissioner McLaughlin asked if this organization's only donation was to its own hockey organization and not to organizations outside of that. **Mr. Comeau** said that was correct -- last year was the first year that was the case. When it came time for the board to make decisions regarding donations to other nonprofits, it was obvious they were going to have to make significant cuts to the program – reduce the ice time, the number of hours and the number of teams and participants. At their last board meeting, they reinstated their giving program and donated \$6,000 out of this year's budget. Prior to last year, Mr. Comeau noted they were a steady contributor to organizations on the east side – other 501(c)(3)'s who didn't have the benefit of generating revenue through gambling proceeds.

Chair Ludwig thought it was significant that not only the Bingo revenue was down slightly, but the other non-gambling revenue was about 50 percent of what it was the year before. **Mr. Comeau** affirmed that like most other organizations, they are searching for other revenue opportunities. They understand that they have to find other ways to fund their programs. Mr. Comeau believed their program is extremely beneficial to the local community. **Chair Ludwig** asked if they are in a pretty competitive Bingo market in King County/Snohomish area, as well as other nonprofit hockey supporters or sponsors. Mr. Comeau affirmed there are two major organizations in the Seattle area – one of the east side and one on the west side. In the last few years they have worked together, they have the same goals and are trying to do the same things for both boys and girls from the age of 4 to 18. Competitively, on the ice they are rivals, but off the ice they do a lot of good things to help each other to sustain their sport and grow.

Commissioner Orr made a motion seconded by **Commissioner McLaughlin** to approve Sno-King Amateur Hockey Association as an athletic association and be authorized to conduct gambling activities in the state of Washington. *Vote Taken; the motion carried with four aye votes.*

**7. Vote on Tribal/State Compact:
Makah Indian Tribe:**

Chair Ludwig noted that ex officio members are allowed to vote on tribal/state compacts. **Ed Fleisher**, Deputy Director, affirmed Commissioners would be voting on a compact between the state of Washington and the Makah Indian Tribe for Class III gaming under the

provisions of Washington State law and the Indian Gaming Regulatory Act (IGRA). As with the compacts that were before the Commission in April, the Makah Tribe is interested in entering into a compact with the state solely for the purpose of being able to lease the rights to their allocation of tribal lottery terminals to other tribes in the state. This Compact is identical to the Stillaguamish Compact. They are both unique in one sense – the Tribe is not interested in conducting Class III gaming on its tribal lands and the Compact itself does not provide for tribal gaming at the Makah Reservation. Rather, it has a provision in it saying that at any time in the future should they change their mind and want to come forward and have gaming on the Makah Reservation, they would have to negotiate an amendment to their Compact. This Compact was negotiated by staff and forwarded to the Legislature. The Legislature held a hearing as provided by statute on May 5th. No formal comments have been received from the Legislature.

Mr. Keith Johnson, Vice Chairman for the Makah Tribal Council, introduced Rich Burley, Tribal Attorney and said he said he would defer technical questions to the attorney.

Chair Ludwig affirmed the Commission previously dealt with other tribes who have negotiated compacts such as the Makah's, primarily for the purpose of taking advantage of the Appendix X machines that they may lease or sell to another tribe that has a casino. He asked if there is still a good demand for leasing the machines. **Mr. Johnson** advised the competition is substantial and they have had limited correspondence regarding the leasing of the machines. The Makah's are encouraged, they have had preliminary discussions with the Muckleshoot Tribe and will be looking at other tribes.

Mr. Johnson noted the Makah Indian Reservation is located on Cape Flattery – the northwest point of Washington State, about 70 miles west of Port Angeles, in an isolated location which is not a good location for a casino. The people are not interested in having a casino and the Tribe likes its isolation.

Senator Prentice affirmed the hearing was conducted while the Legislature was in special session. She reported that what struck the House and Senate Committee was that they were seeing an evolution in the whole industry. Initially, when the tribal gambling machines were approved, the Legislature didn't anticipate this was going to be a benefit for some of the more isolated tribes. They liked that the tribe was realistic and didn't have the money spent before they received it. They were modest in what they were expecting, they wanted some revenue stream, and simply wanted to see how they could benefit the elders and the youth of their community.

Representative Clements as Republican Chair for the House Commerce and Labor, commended the Makah's for their professional attitude during their presentation. He expressed concern and emphasized that they should only go to an Indian tribe that is in full compliance with this Compact. He stressed that he did not want them leasing any of their rights to a tribe that hasn't followed to the letter of the law, its agreement with the state. That would disenfranchise a lot of the nonprofit organizations that struggle with the casinos and the gambling that creates unfair competition. Representative Clements commended the

desire to help the people they serve in their tribe; and on the other side of the coin, he wanted to protect the integrity of the whole gambling issue. He noted there are some tribes that are not in full compliance with state or federal laws, and he wanted to make sure that they don't get an opportunity to benefit from the leasing option.

Director Bishop affirmed they must comply with the requirements of the Compact. If approved, the Makah Tribe would have a Compact with the state, and they can only sell to other tribes who have compacts with the state. **Mr. Fleisher** added that under the Compact, any agreements have to be filed with the agency at least 30 days prior to the operation of the machines. Until the agreement has been filed with the agency and has been reviewed to ensure compliance, shipping by the manufacturers into the state would not be authorized. Manufacturers recognize that if they ship certain machines into the state without the state permission, they put their license at risk.

Senator Prentice made a motion seconded by **Commissioner McLaughlin** that the Gambling Commission approve the Compact with the Makah Indian Tribe and recommend to the Governor approval. *Vote taken; motion passed with four aye votes.*

Mr. Johnson stated that the Makah Tribe stands for following all federal laws and rules and regulations. **Chair Ludwig** called for a recess at 3:00 p.m., and reconvened the meeting at 3:15 p.m.

8. Other Business/General Discussion/Comments from the Public:

Chair Ludwig asked for any public comments.

Ms. Delores Chiechi, Executive Director of the Recreational Gaming Association, extended an invitation to the Commissioners next month in Spokane on Wednesday, June 7th. There will be a tour of the Spokane card room facilities, ending up at Players and Spectators for an informal buffet and informal Q & A for the staff, Commissioners and local legislators.

Mr. Clyde Bach, Sno-King, addressed a point regarding Canadian Bingo, and noted the term "commercial Bingo Hall" is better suited than "professional." They have Bingo Halls that are seven-days-a-week operations that support anywhere from 20 to 30 or more charities out of one operation. A "professional" Bingo hall is not a reflection on the capabilities as much as it is a reflection that is all that facility and organization does. In terms of the operation the Commission looked at with the Red Cross, Mr. Bach stressed keeping in mind three factors: no taxes, the rent situation, and to appreciate the fact that they went from three top 40 Bingo games down to two. "Sometimes one's success is due in part to somebody else's demise."

Ms. Kevin Wagner, Spokane Youth Sports, publicly thanked the Commissioners and the rest of the Legislature for the tax decrease. His board is a group of professionals that volunteer their time for Spokane youth sports – they service about 20,000 kids participating in their sporting programs. The tax decrease is very substantial to the organizations. He noted that it doesn't put more Bingo people in the seats and it doesn't increase gross sales, but it does help overall. He also asked that "when the Legislature sees them standing in

line,” to please keep mind that what separates the nonprofits from other people is that they aren’t doing it for personal gain or profit. They are doing it to provide funding for the various charities, and without any legislative change, a lot of the services that are provided could possibly die.

9. Commission Consideration - Petitions of Reconsideration:

Lindquist Enterprises Inc., Tacoma:

Chair Ludwig reported this organization lost its pull-tab/punch board license because of certain conduct by the owner which was in violation of federal statute and for which Mr. Lindquist was convicted and placed on probation. Chair Ludwig said it was his understanding and advice that the three Commissioners who made that decision were Commissioner Orr, Commissioner McLaughlin and Chair Ludwig, and that only those three are allowed to decide whether the petition of reconsideration should be considered or not. Should they decide to reconsider, then the full Commission would share in that reconsideration.

Chair Ludwig noted that Petitions have been received for Lindquist Enterprises and Chinese Village of Longview. They have not been discussed and the decision will be made today in open session. If the Commissioners decide not to reconsider or do nothing, it is deemed denied. Should they decide to reconsider either one or both, they would appear on the June agenda. Chair Ludwig advised he would defer to either one of his colleagues if they would like to discuss the matter amongst themselves in executive session. **Commissioners Orr and McLaughlin** said they preferred the matter be tabled until after Item No. 10 is heard. Chair Ludwig tabled the petitions of reconsideration.

10. Petitions Concerning Net Return Violations:

Yakima Greenway Foundation, Yakima:

Chair Ludwig reported this petition is regarding a net return violation, and failing to get within the percentage to allow the organization to continue operating under the moratorium. He then explained the procedure and said it would be handled like a review hearing and that he would allow each side ten minutes.

Cecilia Vogt, Executive Director, of the Yakima Greenway Foundation, announced she would be retiring at the end of May. She then introduced **Neal McClure**, Vice President, and **Angie Espinoza**, Bingo Manager.

Mr. McClure noted the Yakima Greenway is a park system in the county of Yakima and some of it is in the city of Yakima. It is the most used park in the city and considered to be an incredible asset. It is not a public/private partnership; it’s a private partnership of the citizens of Yakima that maintain the greenway for the benefit of all the citizens of the county and the city. Greenway Bingo has been the single major revenue source for maintaining this system. Even to this date, as tough as it is, the Yakima Greenway Bingo brought in \$122,000 to their organization last year. That’s down 50 percent from what it brings in its very best years. However, it is still \$122,000 which represents about 30 percent of the total

revenue to the foundation which maintains 60-plus acres of park and pathways. Without the money, they are in serious trouble. With the major cut experienced when Indian gaming started, they've already had to make what many in the organization feel are pretty dramatic cuts in their maintenance and staffing budgets.

Mr. McClure said their organization looks at Bingo as a significant source of income. They are now looking seriously at their expenses because they can't do anything about the revenue. If they lose their Class H license, that will affect their revenue. Last year they had revenues of \$2.6 million and a loss of the license would lower them to \$2 million. **Mr. McClure** said the board has identified areas at the Bingo hall where they can save more money. He said that public boards are often optimistic and hoping for a turnaround. A decision is pending to cut the deli operation out and allow private industry to run it, which would improve their net return. Another area under consideration is a decision to charge rather than gift the foundation for the 75 percent non-Bingo use. The organization is also looking at changing some of their advertising programs.

Mr. McClure said that although their Bingo operation is profitable, if they lose some of their revenue stream by cutting \$2.6 million to \$2 million, they would lose the ability to remain in compliance. If \$180,000 is taken out of their contribution – it would put them out of business. **Commissioner McLaughlin** asked why they wouldn't profit financially by taking a lower class and then when they get near the \$2 million mark, ask for an upgrade of class. **Mr. McClure** responded that if a licensee is able to achieve the minimum net return level for the license sought for the preceding six months, this shall be evidence that the licensee's ability to operate at the new license class level. He believed they would have to still show that they were able to maintain the same net profit that they are asked to right now; they would still need to make 7 percent. He didn't see how they could show that at \$2 million because their fixed costs (\$98,000 in rent and taxes) won't go away.

Ms. Winslow, Deputy Director, affirmed they must operate at the net return that they want to go to for six months. **Director Bishop** said the rule was designed so there's a six month period set between the measurement period and when their next license actually comes in. The reason for doing it that way was so that every organization receives a fair chance to work on the problem, improve their program and fix things. If, in fact that occurs during the six-month period, there would be no foul. **Mr. McClure** said that even if the organization saved \$60,000 and he hopes to identify \$80,000, they still come up woefully short of the requirements, and their hope is to maintain their Class J license. One recommendation would be to make this change effective July 1, which would give the organization plenty of time to operate at a lower level. They feel they can turn this around, and they really would like to maintain their current class.

Representative Clements said there are a lot of variables that affect the ability of a not-for-profit organization to be profitable. He asked the Commission for some levity. He affirmed that the Greenway is probably the most useful place for families and people to go to, and noted the organization is struggling with something they don't know if they can overcome. **Representative Clements** asked for some consideration for one of the most used recreational

and family areas in the state as they struggle through difficult times. **Mr. McClure** reiterated Representative Clements' comments. He said he didn't want to think of Bingo as just an employment agency, however, it does affect the lives of 20 individuals. He said they understand the seriousness of being out of compliance and they are doing everything they can to make sure they are in compliance.

Commissioner Orr asked if the manager had investigated a facility at a lower rate. **Mr. McClure** said he was unaware of that at this point, and indicated that on this time frame there wouldn't be enough time. **Commissioner McLaughlin** asked if the owner of the building was aware of their situation. Mr. McClure responded in the affirmative. Commissioner McLaughlin asked if he knew that he would lose what he has been receiving if the organization goes away. **Ms. Vogt** said he would not have a problem leasing out the building because there is a huge shortage of such space in Yakima.

Senator Winsley asked what the rent was and **Mr. McClure** said the rent itself is \$7,380 which is about \$86,000 a year -- plus they pay property taxes of \$9,800 a year making it close to \$100,000 a year.

Ed Fleisher, Deputy Director reported that the Yakima Greenway Foundation was a Class J licensee. After a staff review of their operations for their measurement period which ended December 31, 1999, their net return was 3.88 percent. Normally, as a Class J licensee, they are limited to \$3 million in revenue and a minimum net return of 12 percent. Recognizing the difficulties that the nonprofit operations are having, the Commission adopted the moratorium last February and the Yakima Greenway Foundation is participating in that, so their net return requirement under the moratorium was 7 percent. Again, during the measurement period, they failed to reach the 3.88 percent. The WACs on the net return provide that if a licensee fails to meet the net return requirement, the license shall be limited for the following license year and in this case, it's the license year starting six months after the measurement period of July 1, 2000. The rule provides for a first violation; the maximum reduction is two classes which would, as they stated, put them at a Class H license, which under the moratorium would reduce their net return requirement to three percent.

Mr. Fleisher said the core philosophy behind the minimum net return requirement was to be sure that funds from Bingo do go to the organization for their stated purposes. Failure to meet the net return requirement not only has an effect on the organization directly, with the revenues going from the Bingo operation to the charitable purposes reduced, but just as important, it hurts the other organizations that are in competition with them by reducing their customer base through the competition. Staff recommends the license be reduced by two classes, recognizing the Yakima Greenway Foundation's other alternative is to come in at some point at the beginning of the license year this summer and ask for an upgrade. Last year the organization was at approximately \$2.6 million; the maximum gross income under a Class H license is \$2 million for the full license year. Mr. Fleisher noted that if they enter the license year this summer with an improvement in net return -- and he noted their net return for the six months that ended in the first quarter this year was up to almost 5 percent.

Staff recommends the license be reduced at this point and as they enter next year, and if they are able to improve the operation and want to come back for an upgrade, they may do so at any time.

Chair Ludwig asked what the minimum was to be rated Class J. **Mr. Fleisher** responded that under the moratorium it requires a 7 percent net return for between \$2.5 and \$3 million in gross income. Chair Ludwig asked what their income was for the past year. Mr. Fleisher said for calendar year '99 it was \$2,641,000. **Commissioner McLaughlin** verified that if they were lowered to Class H, and it started in July and takes six months, there is no way they could upgrade until next year. Mr. Fleisher said he believed that under the rule for an upgrade, at the time one applies for the upgrade, the agency shall review the most recently completed six months, which could be the six months that will be ending June 30th of this year. It's the most recent six months. Commissioner McLaughlin pointed out that they were doing better, and asked if they could use the six months prior to the downgrade in class. Mr. Fleisher affirmed. If, for the six months ending Jun 30th of this year, they were at 7 percent, they could petition at the beginning of July and they could also come to this body. If during that six-month period they were at seven percent, the rule provides that is prima facia evidence that they are meeting the requirement.

Commissioner McLaughlin noted under the Commission's authority to hear the petition, the RCW says, "(3) the percentage or extent to which income derived from Bingo is used for charitable as distinguished from nonprofit purposes" and she asked what that meant.

Director Bishop said there is a difference between charitable under the normal definition and a nonprofit. A social club is a nonprofit, whereby someone that does civic duties would probably be a charity. A nonprofit may be a hockey association that provides hockey games for adults. One has to go to the mores of the community to decide what is charitable versus what is okay or a good thing. **Mr. Fleisher** noted statute and WACs define that a nonprofit corporation is formed for certain specific purposes – educational, athletic, and so on, and qualifies conducting Bingo or nonprofit charitable gaming activities in the state.

Commissioner Orr asked what would happen if the Commission waited. **Chair Ludwig** said that it was his understanding that a license will be issued in June. **Director Bishop** asked if the organization is currently at 5 percent for the last six months. **Mr. Fleisher** affirmed it was at 4.99 percent for the six months ending in March. Director Bishop affirmed they could already be awarded one class higher than they have asked for, so they could be right now licensed to go to \$2.5 million instead of \$2 million. Mr. Fleisher concurred. Chair Ludwig said that rather than reducing them to Class H, and then asking them to upgrade to Class I, he suggested reducing the organization to Class I. Director Bishop affirmed that is an option.

Commissioner Forrest reiterated his feelings that this whole system no longer makes any sense. "If somebody is having a tough time, and we know their external circumstances; and if you could show they were having a tough time because they were squandering their money in excessive salaries and so forth, fine." Commissioner Forrest said he has seen nothing to suggest that, and in fact, it is just the contrary. The penalty of reducing doesn't make any

sense. He said he would make a motion that the Yakima Greenway Foundation be issued their current license, and that it be reviewed at the January meeting; by then he hoped the Commission will have abolished the classes and establish a simple percentage that organizations are going to be able to generate – a percentage of the Bingo gross for charitable purposes. Originally, it made sense because we thought the bigger operation could generate more money, but that isn't the fact. Very few are generating the money that was originally contemplated. Commissioner Forrest said he is dissatisfied with the Band-Aid approach.

Commissioner Forrest made a motion seconded by **Commissioner Orr** that the Yakima Greenway Foundation be granted a renewal of their current Class J license, and the matter be reviewed at the January meeting; by then the Commission will see if there's any legislative inclination to change things more significantly. Additionally, the Commission should be prepared to have a simple, straightforward, across-the-board rule that it is a percentage of the Bingo gross receipts that goes to charity; and if the organization meets that, they're in business.

Commissioner McLaughlin asked if during an appeal audience members may speak. **Chair Ludwig** believed not. He noted it's happened already today, however, he sincerely felt the organization needed all the help they can get. He stated the Commission recognizes that the charities and the nonprofits do so much good and are running into hard times, and that if there's any way to ease their burden, they would like to do so. **Mr. Ackerman**, Assistant Attorney General, interjected that in fairness to the next petition up for discussion, there are not a lot of rules in this area. When a petition is filed, the individual has the right to make their case to the Commission, to argue their side of the case, and not have unannounced people presenting evidence -- just as staff has a right to present its side of the case. The Commission has the right to hear from other people that they think may aid in making a decision. However, if they are going to do that, then clearly they need to bring the people forward, have them recognized on the record, have them available for not only the Commissioner's questions, but in fairness, probably to answer questions from either the petitioner or staff. Mr. Ackerman stressed the need to observe a process.

Mr. John Beadle, Executive Director, Seattle Junior. Hockey, stated there is a major factor that wasn't considered. He reported that he has located Bingo halls and found facilities for numerous nonprofits in this state for over 20-some years, and affirmed that it is very difficult to find a facilities. One must find a facility and adequate parking. The major ingredient that was not considered is that when one finds a facility, it usually will not be up to code for public assembly for Bingo. **Mr. Beadle** reported that it takes approximately \$300,000 to bring a large building up to code for public assembly. **Chair Ludwig** appreciated Mr. Beadle's remarks. He said he was aware of facilities in his area where rent is high. He indicated there are a lot of large facilities vacant because of relocations in his area that would be very compatible with Bingo.

Chair Ludwig expressed appreciation for all the input. He noted this is a petition by one particular licensee, and that he allowed a general discussion -- although it was beneficial, he

indicated that it was inappropriate. Chair Ludwig called for a vote on the motion before the Commission. Vote taken; motion carried with four aye votes. Chair Ludwig declared the Yakima Greenway petition is granted; and they were admonished by **Commissioner Forrest** not to relax their efforts.

Chair Ludwig stated that we wasn't sure staff received as much direction as they should in this matter, however, there was a consensus that they ought to at least look into this issue at some length. Even though the task force has been working and will be working on the matter, the Commissioners should evaluate this in depth and have an opportunity to consider staff and industry input.

11. Executive Session to Discuss Pending Investigations and Litigation

Chair Ludwig called attention to the two petitions for reconsideration and announced the Commissioners would recess the public meeting in order to conduct an executive session to discuss reconsideration. A decision or lack of decision will be announced when they return from the Executive Session. The meeting was recessed at 4:10 p.m. The meeting was reconvened at 5:10 p.m.

Chair Ludwig announced that Commissioners Orr, McLaughlin and Ludwig conducted a discussion with legal counsel to answer any questions they might have regarding the issue of petitions to reconsider their previous ruling in the case of Lindquist Incorporated, and the Chinese Village of Longview; who have asked for reconsideration of their prior orders. The petition by Lindquist Incorporated also asked that they grant a stay order pending Superior Court review of their previous decisions. The Commission has chosen not to reconsider either petition and have chosen not to issue a stay order in the matter of Lindquist Incorporated.

12. Chair Ludwig adjourned the meeting at 5:15 p.m.

**COMMISSION MEETING
FRIDAY, MAY 12, 2000
Draft Minutes**

Chair Ludwig called the meeting to order at 9:30 a.m. at the LaConner Country Inn. The following were in attendance:

MEMBERS PRESENT: CURTIS LUDWIG, Chair;
COMMISSIONER MARSHALL FORREST;
COMMISSIONER LIZ MCLAUGHLIN; and
COMMISSIONER GEORGE ORR;
Es Officio Members, SENATOR MARGARITA PRENTICE; and
REPRESENTATIVE JIM CLEMENTS

STAFF PRESENT: BEN BISHOP, Executive Director
SHERRI WINSLOW, Deputy Director;
ED FLEISHER, Deputy Director;
CALLY CASS-HEALY, Assistant Director;
DERRY FRIES, Assistant Director;
ROBERT BERG, Assistant Director;
JERRY ACKERMAN, Assistant Attorney General; and
SHIRLEY CORBETT, Executive Assistant

Chair Ludwig welcomed former Commissioner Katie Casey from Bellingham.

1. **Minutes** – April 13 & 14, 2000, Pasco
Chair Ludwig declared that if there were no corrections, changes or additions, the April 13th & 14th, 2000, meeting minutes would stand approved as written. There were no objections.

Rule Up For Final Action

2. **Card Room Tournament Licenses.**
WAC 230-40-055 - Card tournaments for fee and prizes -- Reporting requirements.
Mr. Ed Fleisher, Deputy Director, reported this is a housekeeping piece out of the card room rule package adopted last month. Currently card rooms are allowed to have these tournaments, but the current rule did not refer to the new “F” or house banked licenses that were part of the card room package. There are also two small housekeeping changes to correct some references.

Chair Ludwig noted the housekeeping changes were underlined in Subsection 1. Chair Ludwig opened the meeting for public comments to the proposed rule. He pointed out that there had been little discussion on this rule in previous meetings, however, there were no objections or exceptions to the rule. He noted this is the last opportunity to speak for or against this rule, there were no comments; the public hearing was closed.

Commissioner Forrest made a motion seconded by **Commissioner McLaughlin** to adopt the proposed changes to WAC 230-40-055 as submitted, to become effective 31-days after filing, or on June 12, 2000. *Vote taken; motion carried with four aye votes.*

Rules Up For Discussion

3. Sale and Purchase of Gambling Equipment.

WAC 230-02-412 - Gambling equipment defined;

WAC 230-04-110 - Licensing of manufacturers;

WAC 230-04-115 - Licensing of manufacturers – Exception – Special sales permit;

WAC 230-04-120 - Licensing of distributors;

WAC 230-04-124 - Licensing of manufacturer, distributor, gambling service supplier, and linked bingo prize provider representatives;

WAC 230-04-203 - Fees – Commercial stimulant and other business organizations;

WAC 230-12-335 - Control of gambling equipment – Sales and purchases by and to licensees only – Exceptions;

WAC 230-30-212 – Repeal - Punch boards, pull-tabs and related equipment may be sold with sale of business;

WAC 230-30-213 - Sale of punch boards, pull-tabs and pull-tab dispensing devices when license revoked, expired or voluntarily surrendered.

Ed Fleisher, Deputy Director, said the rules package has been proposed by the staff for two reasons. First, staff discovered there wasn't a specific rule requiring licensees only sell card room equipment to card rooms and others legally authorized to possess it. There are clear rules that pull tabs and punch boards can only be sold to licensees. Secondly, staff is getting the definition of "gambling equipment" all in one place in the rule.

The first rule, 3A, defines gambling equipment. Items 7B, C, and D are all rules which have gambling equipment defined in them. The definitions will be placed in 7A.

Item E is a similar change dealing with representatives of distributors, manufacturers and service suppliers. This makes it clear that the employer must ensure that all the employees who are selling the equipment are properly licensed, and that the employers take all steps to ensure that unlicensed persons are not selling gambling equipment

Item 7F is a housekeeping provision to get all the fees in one place within the fee schedule. Staff does not believe there are any Initiative 695 problems because they are not changing or increasing a fee; they are just moving it from one section of the rule to the other.

Item 7G is the main piece of this rule and requires that all licensees ensure that gambling equipment is only bought, sold or possessed by authorized entities which are usually

licensed entities. It also has provisions regarding when transfers of equipment may occur between various licensees.

Item 3H is a repealer that deals with transferring the gambling equipment when a business is sold. This rule is no longer needed because it's incorporated in the previous Item 3G.

Chair Ludwig asked what would happen if someone looked at the rule defining gambling equipment and saw that it included cards, gaming chips or checks, and it prohibits possession of those things except by the person authorized to sell them and a person authorized to use them. He noted that many people have cards and gaming chips. **Mr. Fleisher** affirmed that staff would not interpret that it prohibits individuals from owning a deck of cards or Poker chips. **Commissioner McLaughlin** suggested that if the cards and chips had the logo of the establishment, perhaps it should be identified as cards and chips that have logos. **Director Bishop** suggested using the term "licensed card games." Mr. Fleisher advised staff will review and revise the text for next meeting.

Commissioner Forrest asked if they were talking about just plain old bank checks.

Director Bishop clarified chips or cheques – a cheque is a different type of chip. One has to do with cash and one has to do with credit; it is a gaming term. Commissioner Forrest suggested adding a descriptive term because most people walk around with a checkbook. Director Bishop said they probably could do away with the term checks. **Chair Ludwig** said no one should miss the intent and the interpretation, but to exercise caution so that people don't get carried away and think they can't possess cards any more. Director Bishop indicated that if the term "licensed card games" was used, it would be clear we are not trying to take the cards away.

Gary Murray, Wizzards Casino, addressed WAC 230-12-335; if a person has applied for a license and wishes to go through the procedure of being licensed, until he is licensed, a lot of the rules reference that he can't own or operate this equipment. He suggested making it clear that possession of this equipment is allowable during licensure. **Chair Ludwig** said that may be a matter of interpretation or just an enforcement policy. He concurred that staff might want to review this section for clarification. **Mr. Fleisher** concurred.

Chair Ludwig advised that there would be one more opportunity to discuss this matter and it would be up for final action next month. There were no further comments, and the public hearing was closed.

4. Sales on Licensed Premises Only.

WAC 230-12-074 - Sales on licensed premises only – Exceptions.

Ed Fleisher, Deputy Director, noted this was on the agenda for discussion last month, the rule deals with when a charitable organization may lease part of its premises to a commercial card room and sell pull tabs to the customers of the card room under certain conditions.

Chair Ludwig called for any questions and there were none. **Commissioner Forrest** pointed out that the rule had been thoroughly discussed in last month. Chair Ludwig opened the discussion for public comment.

John Beadle, Seattle Junior Hockey, reviewed his intention on his Bingo property in reference to this rule. There will be a wall separating their facility and there will be an opening in the wall in order for people to purchase pull tabs from their organization. They will actually have to enter a portion of their premises, but it will be walled off from the rest of the Bingo hall. The pull tabs will be dispensed from their premises, but the customers will be able to take the pull tabs from the enhanced card room back into the card room and open them. All transactions will occur in the premises of the charitable organization. **Chair Ludwig** verified that even though the card room patrons must come to the area or window within the Bingo operation premises, they won't be able to go on into the Bingo parlor, and mill back and forth. Mr. Beadle affirmed they cannot enter into the facility where Bingo is being conducted. Chair Ludwig said it is his understanding that because of Mr. Beadle's proposed lease arrangement with a card room facility, this rule is necessary to permit them to carry out the terms of their proposed lease. Mr. Beadle affirmed, they agreed with the enhanced card room to have the exclusivity for pull tabs in order to enhance the revenue to the charity. Chair Ludwig clarified that they are prevented from selling pull tabs and punch boards in the card room. Mr. Beadle affirmed and requested the Commission consider an effective date of July 10th if an affirmative vote is achieved at the June meeting. That date would be the first day it would eligible for implementation if approved.

Commissioner Orr asked if there were other entities that also want to do this. **Director Bishop** affirmed. **Mr. Beadle** indicated there are three more in some phase of negotiations.

Chair Ludwig asked Mr. Teeney if in card rooms such as he operates, punch boards were a very big item when compared to a tavern or something that has only punch boards. **Mr. Teeney** said that in his facility, it is not. However, at The Royal, in Everett, it is the number one or number two commercial punch board/pull tab seller in the state and has an enhanced card room and does very well. Mr. Teeney said he does not put a lot of emphasis on the pull tabs, but his competitors do.

With no further comments, **Chair Ludwig** closed the public hearing. **Mr. Fleisher** said the rule would be up for discussion next month and final action in July. Chair Ludwig called for a ten-minute recess at 10:00 a.m. Representative Clements departed the meeting.

Rules Up For Discussion and Possible Filing

5. Fund-Raising Events.

WAC 230-02-504 - Fund-raising event defined;

WAC 230-25-030 - Fund-raising event with cash prizes - Ten thousand dollars annual net receipt maximum;

WAC 230-25-040 - Fund-raising event - House rules to be developed and posted – Limitations on wagers;

WAC 230-25-070 - Fund-raising events - Central accounting system required;

WAC 230-25-100 - Fund-raising event((s)) – Leasing of premises of retail business- Conditions;

WAC 230-25-110 - Fund-raising event – Use of equipment, lease or rental from licensee;
WAC 230-25-120 - Limits upon amount for rent, lease or similar payments for fund-raising events;
WAC 230-25-150 - Pull-tabs at fund-raising events – Authorized;
WAC 230-25-200 - Bingo at fund-raising events;
WAC 230-25-220 - Raffles or similar drawings conducted at fund-raising events;
WAC 230-25-310 - Fund-raising event - List of workers to be available on premises;
WAC 230-25-315 - Workers to wear identification tabs;
WAC 230-25-325 - Limited fund-raising event – Merchandise prizes.

Mr. Fleisher advised this is a series of rules regarding limited fund raising events that came about as a result of legislation passed during the last session. The rules will become effective in June. Mr. Fleisher said there are three types of fund raising events now. There is the traditional “Reno Night” where a nonprofit can put on an event run by a volunteer of the organization; and where people can play various casino games and are actually gambling for money and the organization makes its profit by winning at the gambling tables. There are recreational gaming activities which are the second type of event authorized. They are purely for entertainment – it’s not a fund raising event, it’s not played for money, it’s purely for entertainment and is only regulated because they are using gambling equipment which requires them to come to the Gambling Commission for permission.

The new type of event is called the limited fund raising event. The purpose is to raise money for charitable organizations. Most of the same limits that apply to fund raising events apply, but the main difference is that the participants pay a fee to go to the fund raising event and are given scrip or chips, but they have no value. They play at the table with those chips or scrip and at the end of the evening, they can cash in the scrip or chips for prizes. There’s a limit on the prizes, they cannot exceed more than 10 percent of the amount of money taken. The key difference with this event is that they are not at risk of winning and losing at the gaming tables. They, in effect, know when the evening starts out how much they’ve sold in tickets and how much they’re going to give out in winnings.

The package consists of a set of 12 rules. Item 5A is adding a definition of fund raising event. Item 5B changes the fund raising event statute to deal with limited fund raising events, and to provide that in determining the limit on how much they are allowed to raise, which is \$10,000 - the maximum that can be raised both for the fund raising event and the limited fund raising events. This changes the WAC to provide that you may deduct from your costs (at a limited fund raising event) what one pays to the company that’s running it for you. **Mr. Fleisher** said it also has a provision that they are required to give all funds in excess of that \$10,000 limit to other charitable organizations licensed by the Commission.

Commissioner Orr asked for clarification that if this fund raiser is limited to \$10,000 and they make more than that, they are required to give the excess to a charity of their choosing. **Mr. Fleisher** affirmed they have to give it to some other organization that qualifies as a charitable organization licensed by the Commission. **Commissioner Forrest** asked how long \$10,000 had been the limit. **Director Bishop** said it has been approximately 10 years. Commissioner Forrest asked if there was any reason for them to update the amount or at

least adjust it for inflation. Mr. Fleisher said the \$10,000 is in statute – it is not in the WAC; it would take legislation to increase the amount.

Commissioner McLaughlin addressed the issue of nonprofits or charitable organizations that think they're going to make \$10,000 and can't reach that goal, and asked if the Commission has any responsibility to make sure that they have enough money to pay the organization that's hired to run the event. **Mr. Fleisher** said the rules don't provide for that – that would probably be a policy decision on the Commission's part. He clarified the revenue for limited fund raising event will come from ticket sales, not from the gambling itself. Therefore, the organizations should have a better idea as to what their revenue will be. **Director Bishop** anticipated that a charity would hire an organization to manage the event for them, they would go out and sell tickets for \$100 (or whatever), and if they sold a thousand tickets for \$10, they would have their \$10,000 starting base. They would have some idea before they went in to the event how much money they were going to make.

Commissioner McLaughlin noted the equipment distributor must be paid a fixed fee, not a percentage of the receipts, so she could see where some organizations might be stuck with a fee if they didn't sell enough tickets. **Mr. Fleisher** said that was a possibility -- they run the same risk as if they were going to hire a band to have dancing for the event and then didn't sell enough tickets. Commissioner McLaughlin asked whether the Commission had to make certain the organization has enough money to pay the fixed fee even if the event is not successful. **Commissioner Orr** believed the organization is obliged to whatever business arrangements they make and that is out of the Commission's hands.

Mr. Fleisher advised that Rule 5C is technical. It clarifies that the \$10 wager limit for regular fund raising events does not apply to the limited fund raising events because, again, they are playing with scrip that has no cash value.

Item 5D provides that the licensee's conducting these limited fund raising events have to provide details in their application on the method that they are going to use to allocate the amount that is going to the gambling event. For example; the tickets cost \$100 which includes dinner and other activities as well as gambling, so only part of that \$100 is allocated to the gambling activity and counts against the \$10,000 limit. Normally, an individual will pay a fee to attend a fund raising event which probably includes dinner and a certain amount of scrip that can be used at the tables to gamble with. The law also allows that a player can make a contribution for additional scrip later in the evening if they've lost all their chips and want to continue to play.

Mr. Fleisher said that Item 5E addresses leases of premises and provides that the equipment provider shall not provide the facility where the events are conducted. The idea behind the statute passed by the Legislature was that there would not be one location that has these events occurring every night of the week with different charities each night.

Item 5F deals with the leasing of equipment. Currently, there are price limits on the sale and rental of gambling equipment for fund raising events for Reno Night events. This rule

provides that those limits don't apply, but they have to make a good faith effort to ensure that they are going to make a profit from the fund raising events.

Item G also deals with the rental of equipment for the fundraiser event. Item F deals with pull tabs and provides that the limited fund raising events cannot involve pull tabs. The concern there was that pull tabs have a cash value and one could end up mixing scrip and cash at the same time.

Commissioner Forrest referred back to the various dollar limits -- \$30 for an individual gambling station and asked where they come from and why are they necessary. **Mr. Fleisher** said that was passed a number of years ago so the charity conducting the activity wouldn't be paying so much for the gaming tables and so that they wouldn't end up showing a profit on it. In limited fun raising events, where the organization is buying the whole package from a company, staff felt those specific things weren't needed. **Commissioner Forrest** was skeptical about the necessity for being quite that micromanaging in regard to the dollar amounts. **Director Bishop** said staff would be glad to consider repealing that -- and explained that initially the amounts were added to prevent price gouging from some of the organizations. **Commissioner Orr** agreed with Commissioner Forrest, sometimes the Commission tries to protect people when they have an obligation to protect themselves. If the Commission can make it easier, it isn't always bad and warrants looking at.

Chair Ludwig asked if there were enough distributors to provide a competitive market in leasing of gambling equipment. **Mr. Fleisher** believed there are only two or three. **Director Bishop** affirmed this has been a declining activity, when at one time it was one of the most popular licenses. **Commissioner McLaughlin** pointed out that if an enhanced card room or an Indian casino is close by, there wouldn't be successful Reno Night events. **Mr. Fleisher** agreed there was no question that has really affected the Reno Nights. **Director Bishop** said staff will bring forward an option to repeal for discussion with the June packet.

Mr. Fleisher said 5H provides that a limited fund raising event cannot involve the sale of pull tabs during limited fund raising events. Item 5I deals with Bingo and Item 5J deals with raffles. **Mr. Fleisher** said the theory behind all three of these rules (recently authorized by the Legislature), is that the game is only played with scrip -- the prizes are limited to merchandise prizes -- and purchase prizes are limited to 10 percent of the total amount of take in. **Commissioner Forrest** asked if this is a legislative directive? **Mr. Fleisher** produced the statute. He commented that if the organization hires a vendor to conduct the event rather than to use their own volunteers, which is what they're authorized to do at limited fund raising events, then they cannot play any of the games or activities for cash. He supposed if they wanted to have both the limited fund raising event and a raffle at the same charitable fund raiser, they could get a raffle license. **Director Bishop** said the raffle law itself prohibits paid persons from operating -- if an organization is paying this group to do it, they couldn't sell raffle tickets for the organization. It's a technicality.

Mr. Fleisher said Items 5K and L deal with the employees of the fundraising event providers. Item K provides that they shall provide the Gambling Commission with a

detailed list of all of their employees who will be working at the event. Item L provides that the employees of their equipment providers shall have a name tag identifying that they are employees of the fund raising equipment provider.

Item M is the rule that describes the procedures and restrictions for running these fund raising events. **WAC 230-25-325** provides that only members and guests of the organization shall participate in the event. It also provides that the guests cannot exceed 25 percent of the participants at the event. Staff felt they needed to have some number because of the statutory restriction that it's only members and guests and limiting how many of those could be guests. There may be some testimony on whether 25 percent is the right number. Only the members of the organization shall be used for the transactions involving cash. In other words, you may only buy the scrip from the organization, not from the fund raiser equipment provider.

Commissioner McLaughlin said most husbands and the wives don't belong to the same organization, and if they want to bring their spouse to an event, it could easily be up to 45-50 percent of guests or visitors. Mr. Fleisher agreed. He indicated that number is a policy call and that staff would like to get Commissioner and industry input on what that figure ought to be.

Mr. Fleisher addressed Item 7 -- a nonprofit may only contract with persons licensed as a Class D or E fund raising event equipment provider. He believed this reference is incorrect and will be corrected for next month.

Item #9 provides that the fund raising equipment distributor shall not share in the proceeds. This comes from the statute; they have to be paid a fixed amount and can't share in the profits of the event.

Mr. Fleisher noted the rules package is up for filing, and if approved, it will be on the agenda next month. **Chair Ludwig** opened discussion for public testimony in favor or opposed to the filing of this rule.

Gary Murray, Wizzards, expressed concern regarding the wording in **WAC 230-25-030** Section 3, which was the distribution of net receipts in excess of \$10,000. If someone raised \$50,000, they could keep \$10,000 and give \$40,000 another charity. Then that charity could conduct an event, keep the \$10,000 and give back the other \$40,000. He didn't believe this was or should be the intent of the regulation. Mr. Murray asked if the Commission wanted to address how much excess can be given to which charitable and whether they can run one themselves and actually triple up on their proposed limit.

Chair Ludwig asked if he is suggesting that anything in excess be distributed to other charities provided that no more than \$10,000 would be given to any one charity. **Mr. Murray** said he was not sure of the statute and whether or not \$10,000 is the most each charity can get in a year under a Fund Raising Event (FRE). He asked if that is the total amount any particular charity event can get from all FREs whether it's their own or

somebody else's. **Mr. Fleisher** responded that no charity can hold fund raising FREs that raise more than \$10,000. However, he wasn't sure the Legislature really addressed whether getting a check from some other charity that came from that source of funds would be considered within that \$10,000. **Senator Prentice** noted the proponent of the bill was present and may be able to respond to the questions and provide valuable input.

Mr. Davor Gjurasic, Public Affairs Consultant for Gjurasic Enterprises, reported that he is a part of a coalition of event companies and nonprofit organizations who worked on this legislation. He introduced fellow coalition members, Rudy Garza, Chairman, Pacific Arts Center, and Dan Blagovich, President, West Coast Casino Parties. He provided a brief historical overview. Two years ago, the Coalition approached Ed Fleisher and Amy Patjens with the idea. Mr. Fleisher and Ms. Patjens were instrumental in getting them off the ground that first year. He also worked extensively with Senator Margarita Prentice who was instrumental in helping pass this legislation. Representative Jim Clements and Representative Alex Wood were sponsors and prime sponsors of the legislation. Mr. Gjurasic emphasized the intent is and has always been to have an additional tool for nonprofits to raise funds. There are the traditional casino nights at the fraternal organizations, and there are the casino night events used for entertainment. This legislation falls right in the middle. It is a safe way to go for fund raising because of the safeguards that are put in effect.

Mr. Gjurasic addressed the \$10,000 issue. His understanding of the current law is that a fund raising event can only raise \$10,000 at a time for a nonprofit. The question was asked whether another charity could be named if more than the \$10,000 was raised, instead of giving it back -- because the premise is to raise money for nonprofits. The valid question is how does one disburse those funds.

Commissioner Forrest asked if the proposed rules fairly implement the legislation, whether Mr. Gjurasic is satisfied with this implementation. **Mr. Jurassic** said that on the whole they are excellent and they reflect the intent of the legislation. The bottom line has been with the intent of helping nonprofits raise money.

Rudy Garza, Pacific Arts Center, reported this is a nonprofit arts organization in Seattle. They provide therapeutic arts for youth, homeless and abused youth and children. He affirmed this legislation is important. It provides another tool for fund raising opportunities and it opens the way to compete against other nonprofit organizations for what is becoming a limited pool of resources. He agreed that on the whole, the legislation is very strong and very good. In regard to the 25 percent limitation for guests, Mr. Garza pointed out that a large majority of nonprofit organizations including theirs are not member based. They are a service organization. They don't have members and that requirement would be a conflict for a large number of nonprofits or nonprofit organizations. Under the existing general qualifications section of this a limitation it also notes that an organization doing a casino event, must have a minimum of 15-member board of directors with full voting rights. The Pacific Arts Center only has 12 board members. **Mr. Garza** cautioned that there are a large number of nonprofit organizations that are small and don't meet the 15-member limit.

Mr. Garza addressed the current fee costs for conducting these types of events. He believed they are being fit into what applies to fraternal organizations. He emphasized that he is a nonprofit organization, trying to make money with fund raising programs; any fees that are added to an event makes it that much more difficult to make a profit.

Chair Ludwig asked if they were recommending the Commission file this rule for future discussion, keeping in mind the need for continued discussion on guest limitations and the fees. He also commented that the Commission does not receive state tax funds to regulate gambling activities, and therefore, requires some license fees in order to be able to inspect and regulate activities. Chair Ludwig affirmed the fee presently set can be reviewed. **Mr. Fleisher** clarified the issue relating to the number of board members required; noting it is statutory; not simply a rule. To qualify as a nonprofit organization, there must be at least 15 members.

Dan Blagovich, West Coast Casino Parties, reported there are some “fail safes” in the rules to prevent price gouging. Number one; they know all their costs going in, and there are Gambling Commission forms that have to be completed before each event. This brings the awareness of what all the costs are to the nonprofits. They have to physically fill out all their costs and what they hope to make at each event. Their contracts specifically states that they can adjust according to their ticket sales. If the event has to be canceled, the policy allows the extension of any deposits or any payments for anywhere from 90 days to six months, so they never lose their money – they may reschedule the event to a future date.

Mr. Blagovich addressed the classification correction of D and E of fundraising equipment. He noted the actual license should be for a fund raising equipment “distributor” rather than “provider.” Lastly, Mr. Blagovich addressed the issue of event planners – people who organize the event - from transporting people, to booking facilities and working with the caterers. He wanted to make sure that because someone is an event planner for the event, that they are not required to be licensed.

Commissioner Forrest asked if that was a problem. **Director Bishop** believed this would require staff review – there is a definition for a bona fide organization, those that are authorized to do gambling. If this is a gambling event under the gambling statute, an organization would have to meet the minimum qualifications in order to participate. **Ms. Winslow**, Deputy Director, believed this type of activity is currently allowed to occur with the RGA’s – they have event planners that contract with the company to provide services for a charity. Director Bishop affirmed that is for any organization – it doesn’t have to be a charity. He affirmed the rule would require review.

Nick Peck, Administrative Director of Silver Buckle Radio Club, which is licensed Bingo nonprofit in Vancouver, noted that he is also President of The Friends of Fort Vancouver. This is a fund raising 501(c)(3) charity that exists in Clark County to raise funds for the reconstruction of the National Historic Site at Fort Vancouver. He asked that when the Commission considers this item, that they consider the logic of preventing a charity from

making as much money as it can with the cap of \$10,000. Mr. Peck asked that the Commission be as liberal as they can be under the legislation in committing a charity to raise as much as it can through an event such as this without a limitation; and without necessarily having to pass the money through to other charities. He asked for a Commission and Ex Officio Member review of the wording and to consider the difference between a charity as the IRS considers in 501(c)(3) as opposed to the other forms of nonprofit under IRS. **Chair Ludwig** asked Mr. Fleisher if the \$10,000 was in statute and Mr. Fleisher affirmed.

Mr. Peck offered an example of an organization that should not be capped – an organization which is a 501(c)(3) charity called SWIFT Community Foundation, that exists to raise funds which it then distributes through grants to other Charities. It in itself does not do charity work, but funds other Charities. **Mr. Fleisher** noted that statute does provide a statutory maximum of \$10,000 from the fundraising event. However, the licensee will let the Commission know how much of the cost they charge is allocated to food and drink, and how much is allocated to the limited fund raising event that the agency regulates. They could of course also have straight contributions to the organization -- so there is some flexibility in what is available to them under the rules. **Director Bishop** said it would be beneficial to the nonprofit organizations to organize or structure the sales so that people participating could in fact get a tax advantage. If the tickets are sold for \$100 and \$10 is for a meal, and \$20 is for the gambling event or the non gambling event, and the other \$70 is for contributions to the organization, people can deduct at least the \$70 from their taxes as a charitable contribution.

Chair Ludwig asked if there were others who wished to speak in reference to the proposed rule and possible filing. There were none and the public hearing was closed. He noted the comments offered would be given consideration and possibly some amendments and changes may be made to the rules. **Commissioner McLaughlin made a motion seconded by Commissioner Forrest to file the proposed rule for the FRE.**

Senator Prentice, said she wanted to make it very clear that this piece of legislation may not seem massive, however, the usual questions about the expansion of gambling and the \$10,000 cap was at least a selling point. She cautioned that saying “this can’t get out of hand” has to be channeled and nursed very carefully. Even something like this isn’t as simple to do. *Vote take; motion passed with four aye votes.* **Chair Ludwig** noted this item will appear on the June agenda.

6. Other Business/General Discussion/ Comments from the Public

Chair Ludwig called for any other comments there were none. He announced the next meeting would be conducted in Spokane on June 8 & 9, and declared the meeting adjourned.

Submitted by:

*Shirley Corbett
Executive Assistant*

